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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,132	02/27/2002	Jonathan Lin	58268-00058	3399

32294 7590 03/10/2005

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EXAMINER	
SALAD, ABDULLAHI ELMI	
ART UNIT	**PAPER NUMBER**
2157	

DATE MAILED: 03/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/083,132	LIN ET AL.	
	Examiner	Art Unit	
	Salad E Abdullahi	2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 February 2002*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-16* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *27 February 2002* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *3/7/2005*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This application has been reviewed. Original claims 1-16 are pending. The rejection cited stated below.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-16 of the instant application is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-26 of copending Application No. 10/083,594. Although the conflicting claims

are not identical, they are not patentably distinct from each other because the only difference between the two sets of claims are obvious variations (see table below).

4. claims 1 and 7 of the instant application is compared with claims 1 and 19 of the co-pending application on the table below.

Co-pending Application 10/083,594	Instant Application 10/083,132
Claims1 and 10: A network device comprising:	Claim 1 and 7:A network device comprising:
at least one network port;	at least one network port configured to send and receive a data packet;
a clock generating a timing signal;	a clock generating a timing signal;
address resolution logic (ARL) tables configured to store and maintain network address data; and	address resolution logic (ARL) tables configured to store and maintain network address data;
address resolution logic coupled to said ARL tables and said clock, and configured to search said ARL tables and to perform updates and inserts to said ARL tables based on a learning function, said searching and said updates and inserts being performed concurrently during alternating slots of said timing signal;	address resolution logic coupled to said ARL tables and configured to perform a search of said ARL tables based on said data packet, and to perform an update based on a learning function, said search and said update being performed concurrently during alternating slots of said timing signal; and
wherein said address resolution logic is configured to search said ARL tables for a destination address based on a data packet received at a port of said at least one port, and when said search returns a destination address, said address resolution logic is configured to update a related record of said ARL tables based on said learning function.	**range calculation logic configured to calculate a current range of said search; wherein said address resolution logic is configured to determine an intended result of said update and to block said update when said intended result will move data out of said current range of said search.**

In view of the "obviousness - type" double patenting rationale enunciated in Georgia Pacific Corp v United States Gypsum Co., 52 USPQ2d 1590, U.S. Court of Appeals Federal Circuit 1999.

instant application claims 1 and 7 merely defines an obvious variation of the invention claimed in the co-pending application claims 1 and 10.

The added limitation to claims 1 and 7 of the instant application describe a subset of all possible conditions being monitored in the co-pending application 1 and 10. As in the Georgia Pacific case, claims 1 and 7 of the instant application is merely a subset of claims 1 and 10 of the co-pending application claim 1 and 10. For example, the range calculation logic configured to calculate a current range of said search; wherein said address resolution logic is configured to determine an intended result of said update and to block said update when said intended result will move data out of said current range of said search as recited in claim 1 and 7 of the instant application is a subset of address resolution logic is configured to search said ARL tables for a destination address based on a data packet received at a port of said at least one port, and when said search returns a destination address, said address resolution logic is configured to update a related record of said ARL tables based on said learning function as recited in claims 1 and 10 of the co-pending application. Furthermore, one skilled in the would have readily recognize the advantage of setting range for a search in order to avoid indefinite continuation of such search which would take time and resource. Hence claims 1 and 7 of the instant application is merely subset of claims 1 and 10 of the co-pending application.

These differences are not sufficient to render the claim patentably distinct and therefore a terminal disclaimer is required.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

5. Claim 13 of the instant application is compared with claim 19 of the co-pending application on the table below.

Co-pending Application 10/083,594	Instant Application 10/083,132
Claim 19, A method for performing searching and learning concurrently within a network device, said method comprising the steps of:	Claim 13, A method for performing learning and searching concurrently in a network device, said method comprising the steps of:
providing a network device comprising at least one port, ARL tables configured to store and maintain data related to port addresses of said network device, and address resolution logic configured to update and insert data into said ARL tables based on a learning function;	providing a network device comprising at least one port for receiving a data packet, ARL tables configured to store and maintain network address data, and address resolution logic couple to said ARL tables and configured to search and update data into said ARL tables based on said data packet;

receiving a timing signal; receiving a data packet at a port of said at least one port; initiating a search in said ARL tables based on said packet; and performing said search concurrently with and updates to said ARL tables related to said learning function, said searches and updates being performed during alternating slots of said timing signal. .	generating a timing signal; receiving at least one data packet at said at least one port; initiating at least one search of said ARL tables based on said at least one data packet; determining a current range of said at least one search; performing an insert into said ARL tables based on results of any searches to said ARL tables to perform a learning function; performing at least one update to data in said ARL tables based on said learning; determining an intended result of said at least one update; and **blocking said at least one update when said intended result correlating to said at least one update will move data out of said current range;** wherein said at least one search and at least one update being performed during alternating slots of said timing signal.

In view of the "obviousness - type" double patenting rationale enunciated in Georgia Pacific Corp v United States Gypsum Co., 52 USPQ2d 1590, U.S. Court of Appeals Federal Circuit 1999.

instant application claims 1 and 7 merely defines an obvious variation of the invention claimed in the co-pending application claims 1 and 10.
The added limitation to claims 1 and 7 of the instant application describe a subset of all possible conditions being monitored in the co-pending application 1 and 10. As in the Georgia Pacific case, claims 1 and 7 of the instant application is merely a subset of claims 1 and 10 of the co-pending application claim 1 and 10. For example, the range calculation logic configured to calculate a current range of said search; wherein said address resolution logic is configured to determine an intended result of said update and to block said update when said intended result will move data out of said current range of said search as recited in claim 1 and 7 of the instant application is a subset of address resolution logic is configured to search said ARL tables for a destination address based on a data packet received at a port of said at least one port, and when said search returns a destination address, said address resolution logic is configured to update a related record of said ARL tables based on said learning function as recited in claims 1 and 10 of the co-pending application. Furthermore, one skilled in the would have readily recognize the advantage of setting range for a search in order to avoid indefinite continuation of such search which would take time and resource. Hence claims 1 and 7 of the instant application is merely subset of claims 1 and 10 of the co-pending application.

These differences are not sufficient to render the claim patentably distinct and therefore a terminal disclaimer is required.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

As to claims, 2-6, 8-12 and 14-16 of the instant application, see claims of the co-pending application 2-9, 11-18 and 20-26

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Salad E Abdullahi whose telephone number is 571-272-4009. The examiner can normally be reached on 8:30 - 5:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Abdullahi Salad
3/6/2005